

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 26, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone 04029

PROPOSAL: To change the zoning on 10 parcels within the unincorporated area known as Emerald, from H -3 Commercial to R-1 Residential and from AG Agriculture to H-3 Highway Commercial and R-1 Residential.

LOCATION: Generally located at NW/SW 84th and West "O" Street.

LAND AREA: 13.37 acres, total, more or less. 5.5 acres to H-3 and 7.87 acres to R-1.

CONCLUSION: This neighborhood/community appears to have reached a point where the mix of residential and commercial uses seems to have potential for conflict and is in need of stabilizing. Approval of this change of zone would preserve the current development pattern and stabilize the residential uses as well as provide more review if additional commercial is requested in the future. Future changes of residential uses to residential zoning to consolidate the edges and zoning pattern would be appropriate if this is approved.

<u>RECOMMENDATION:</u>

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION:

From AG to H -3:

A 5.5 acre portion of Lot 54 I. T. located in the SW 1/4 of Section 23, Township 10 North, Range 5 East from AG to H - 3. Legal description attached.

From AG to R-1:

Lot 53 Irregular Tract(formerly 47) in the SW 1/4 of Section 23, T10N, R5E

From H - 3 to R - 1:

Lot 46 Irregular Tracts in the SW 1/4 of Section 23 T10N, R5E

Lots 17, 12, 13, 14 and 38, Irregular Tracts in the NW 1/4 of Section 26 T10N, R5E

Lots 11 and 12 Irregular Tracts in the NE 1/4 of Section 27, T10N, R5E

All in Lancaster County, Nebraska,

EXISTING ZONING: All H-3 Commercial except for two parcels of AG.

EXISTING LAND USE: Single family dwellings and open land.

SURROUNDING LAND USE AND ZONING:

North:	Sewage lagoon, Residential, Public, and Commercial uses	P-Public, AG Agriculture
South:	Residential and farm uses	AG Agriculture
East:	Agriculture uses	AG Agriculture
West:	mixed farm, commercial and residential uses	H-3 Commercial and AG

HISTORY:

The settlement of Emerald was established in about 1884. It was zoned C Commercial zoning in the County, converted to City H-2 in 1970 when the three mile city jurisdiction included the area. Converted from H-2 to H-3 Highway Commercial zoning in 1979.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan shows the area as commercial (F 25), reflecting the existing zoning.

COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:

The *Overall Guiding Principles* for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The *Guiding Principles for Existing Neighborhoods* include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

Strategies for Existing Residential Areas

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The ***Guiding Principles for the Urban Environment: Residential Neighborhoods*** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

One ***Quality of Life Asset*** from the ***Guiding Principles from the Comprehensive Plan Vision*** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

GUIDING PRINCIPLES FOR EXISTING COMMERCIAL CENTERS

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented.

Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas.

The priority in older areas should be on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as shared parking, additional on-street parking or the removal of older commercial stores should be explored.

Encourage mixed-use commercial centers, including residential uses on upper floors and at the rear of commercial buildings.

Encourage efforts to find new uses for abandoned, under utilized or "brownfield" sites that are contaminated. Brownfield sites should be redeveloped and the environmental hazards associated with them mitigated.

Develop and maintain an ongoing citywide floor area and land-use space survey and analysis for office, service and retail commercial uses. The survey and analysis should be used to monitor growth and measure vacancy rates and to provide baseline information for decision making. (F 49)

AESTHETIC CONSIDERATIONS:

This is an area of mixed commercial and residential uses, many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. This is an entryway approach to Lincoln.

ANALYSIS:

1. This is a request by the Emerald Sanitary and Improvement District, on behalf of the district and several residents. The reason for the zoning change of this area is to preserve and enhance the residential uses of the area and prevent the overtaxing of the residential neighborhood as commercial.
2. The 1979 zoning update changed the format of the ordinance to remove the pyramid zoning of the pre-1979 ordinance and removed residential uses from the H-3 district. The residential uses in the H-3 District are 'non-standard' uses under 27.61 and can be enlarged and reconstructed.
3. The applicants state that this was a residential neighborhood long before the commercial uses intruded.
4. The question of "spot zoning" might be raised with the zoning of only two or three lots in a cluster. This application reflects the historic fabric of the settlement and is only requesting the change of zoning where the land owners are in support. Because of the pattern of lots stripping along West "O" Street, there is little or no option to achieve a better zoning pattern if more than one district were applied.
5. The zoning change from AG Agriculture to H-3 Commercial on a portion of lot 54 IT is to allow the subdivision and sale of that surplus portion from the SID lagoon field to the neighboring commercial use.
6. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.
 - A. **Safety from fire, flood and other dangers.**
No apparent impact however, the change of zone to residential may provide some protection for future residential use.
 - B. **Promotion of the public health, safety, and general welfare.**
This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan.
 - C. **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.**
The housing within this proposed change of zone is primarily single-family and are reputed to predate the commercial uses that mix in.

D. Conservation of property values.

It is difficult to determine the effect a change of zoning will have on property values. However, the fact that much of the area would be zoned to reflect its use should assist in the stability of the uses and associated value.

E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices.

7. There are several differences between R-1 and H-3 lot and area requirements. The table at the end of this report shows the requirements for residential uses in each district. It is anticipated that all the lots can meet the requirements of the R-1 Residential district.
8. The uses allowed in these districts are very different. Residential vs commercial.
9. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”
10. The proposed change is not anticipated to create any nonstandard or nonconforming uses, in fact, the existing residential uses will move from a nonstandard status to a conforming status.

11. Comparison of R-1 and H-3 lot and area requirements:

	R-1	H-3
Lot area, single family	9,000 sq. ft.	N/A
Lot area, two family	14,400 per family	N/A
Lot area, townhouse	N/A	N/A
Lot area, Commercial	N/A	0
Avg. lot width, single family	60 feet	N/A
Avg. lot width, two family	48 feet per family	N/A
Avg. lot width, townhouse	N/A	N/A
Avg. lot width, Commercial	N/A	0
Front yard, single-family	30 feet	N/A

Front yard, two family	30 feet	N/A
Front yard, townhouse	N/A	N/A
Front yard, Commercial	N/A	30 feet
Side yard, single family	10 feet	N/A
Side yard, two family	20 feet (0 at common wall)	N/A
Side yard, commercial	N/A	15 feet., 20' if abutting residential
District height	35'	45'
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

Prepared by:

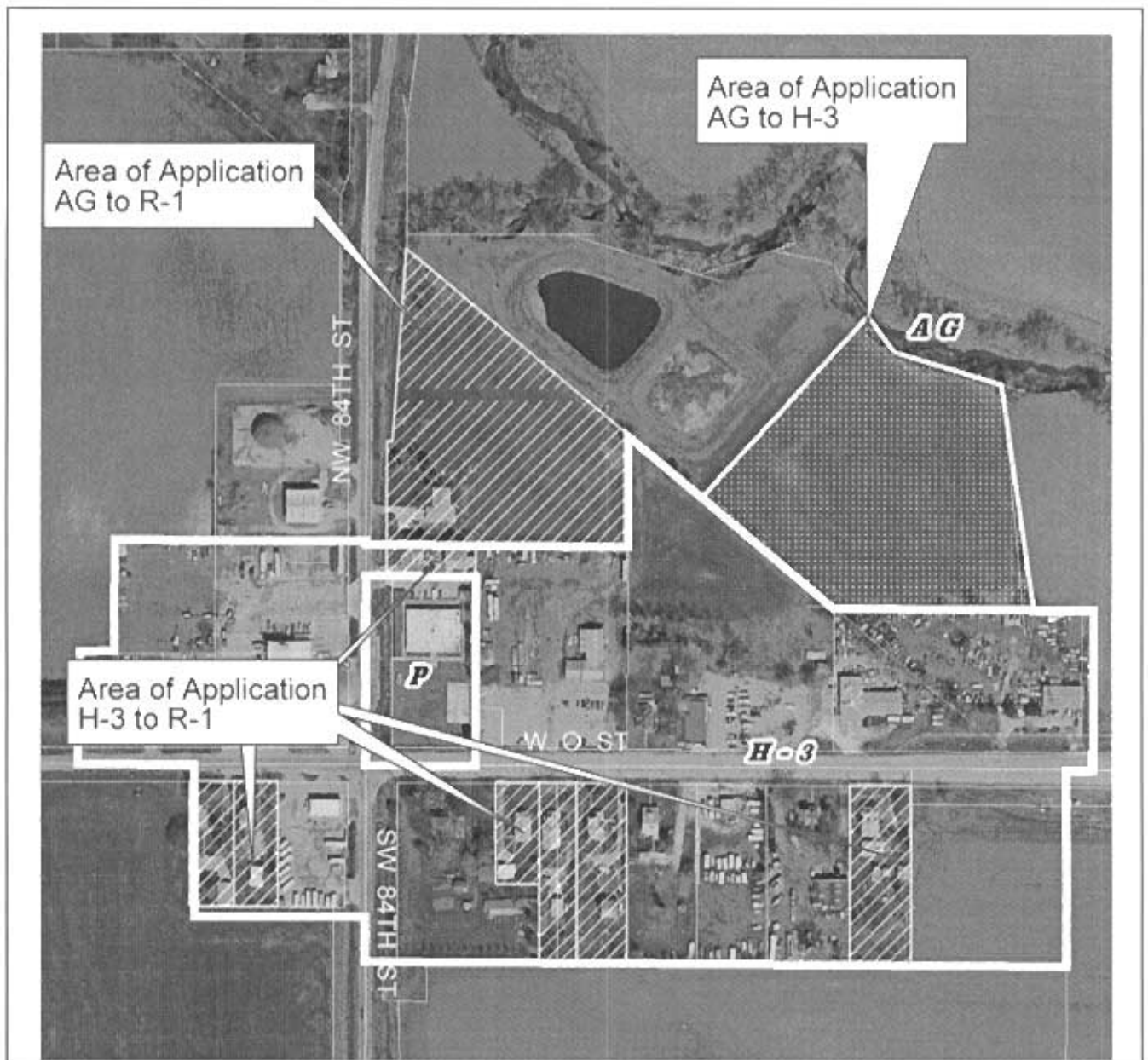
[Mike DeKalb, 441-6370, mdekalg@ci.lincoln.ne.us](mailto:mdekalg@ci.lincoln.ne.us)
Planner

Date: May 8, 2004

Applicant: Sanitary and Improvement District #6
Becky Vandenberg, president
8200 West "O" Street
Lincoln, NE 68528
(402) 476-3590

Contact: Becky Vandenberg
8301 West "O" Street
Lincoln, NE 68528
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Change of Zone #04029

2002 aerial

SID #6

W. 82nd and W 'O' St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T10N R5E



Lincoln City - Lancaster County Planning Dept.

Planning Department

**We're asking for the change from AG to H3 on the SID parcel
to accommodate county zoning regulations.**

**The parcel once known as LOT 1 located in the SW quarter of SEC. 23-10-5
has been divided allowing a 5.05 acre parcel, now known as LOT 2,
to be sold to and adjoin LOT 32 which borders LOT 1 on the southwest.**

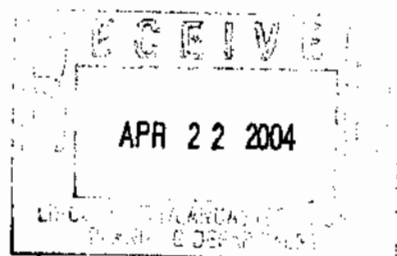
**The SID has owned the property since 1973 and has never used it.
The owner of LOT 32 expressed an interest in the property, agreed to
fence the property and use it in a manner that is conducive to
SID/Area improvements aesthetic and otherwise.**

**The residents of Emerald are asking to change the current zoning for the residential
properties from H3 Commercial to R1 residential.**

**We live here, this is our HOME! Some of us have always lived here.
I (owner of LOTS 13 & 14) have lived in this house for more than twenty years.**

**We want the ability to rebuild if, God forbid, our homes should be
happen to be destroyed. Due to the fact that the homes were here before
the majority of business's we are left wondering why we are in need of defending
our residential properties and not have been given the opportunity to
already have done so. We just became aware of this issue this past fiscal year,
and believe it necessary to protect ourselves.**

**We are asking the City Planning Department to grant us
this rezoning request.**



A-3 to R-1

In addition we would like to change zoning from H3 commercial to R-1 Residential on the following lots all of which are contained within the SID Boundaries and meet the City/County zoning requirements:

LOTS #

12

11

in SEC 27 T10 R5

~~47~~

46

AG to R-1

in SEC 23 T10 R5

38

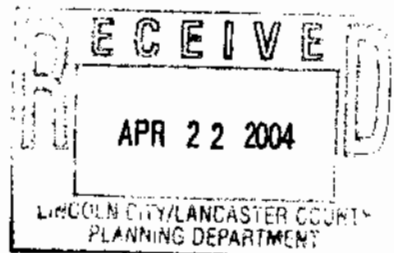
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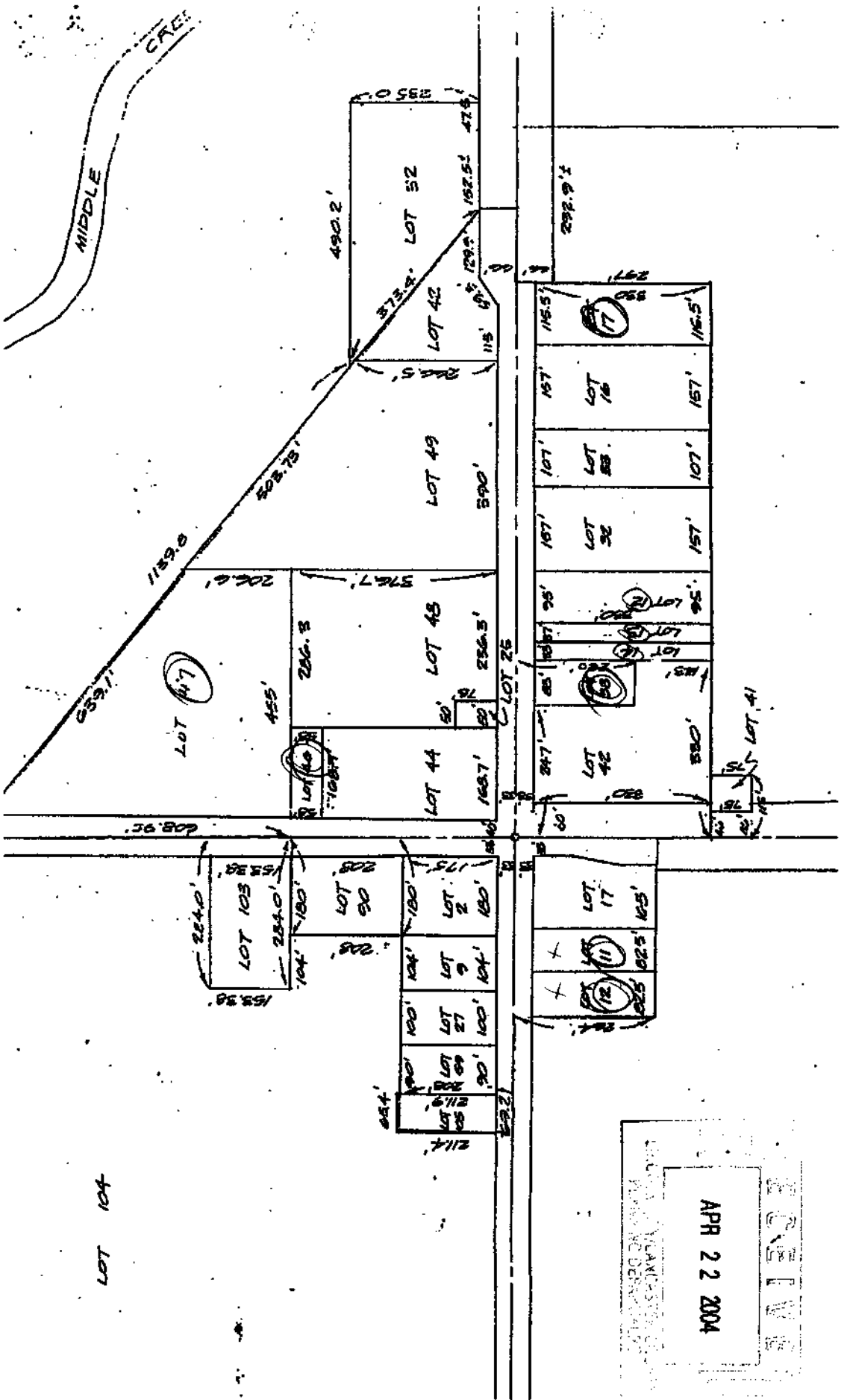
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in SEC 26 T10 R5



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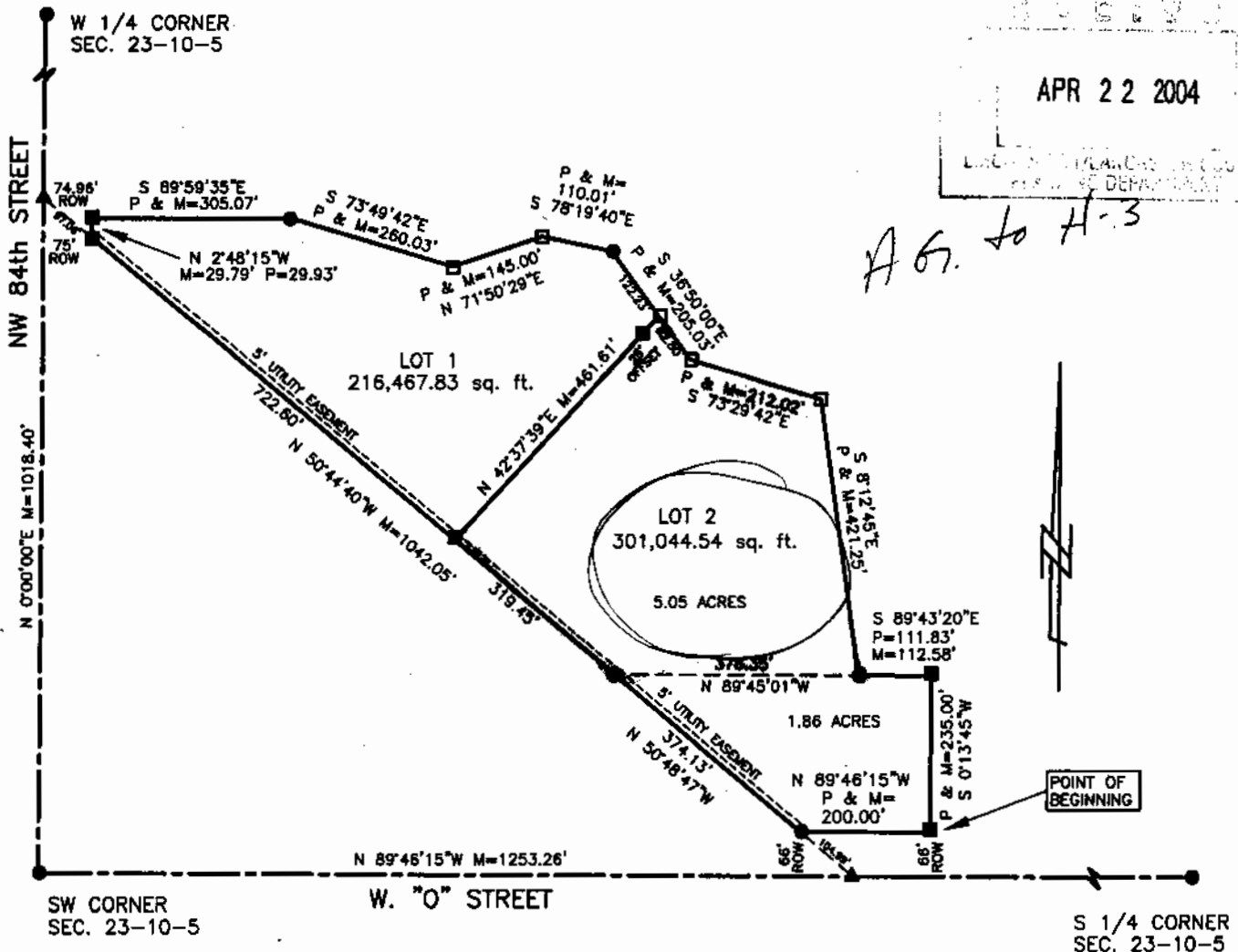


for Change of Zone.

C2.
AG to H-3

THAT PART OF LOT 54 IRREGULAR TRACT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 5 EAST OF THE 6th P.M., LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 54; THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 54, ON AN ASSIGNED BEARING OF N 89°45'01"W A DISTANCE OF 378.35', TO THE SOUTHWEST OF SAID LOT 54, SAID POINT BEING THE NORTHWEST CORNER OF LOT 32 IRREGULAR TRACT IN SAID SOUTHWEST QUARTER; THENCE NORTHWESTERLY, N 50°44'40"W 319.45'; THENCE NORTHEASTERLY, N 42°37'39"E 461.61', TO A POINT ON THE NORTHERLY LINE OF SAID LOT 54; THENCE ON THE NORTH LINE OF SAID LOT 54, FOR THE NEXT TWO (2) COURSES, SOUTHEASTERLY, S 36°50'00"E 82.80'; THENCE EASTERLY, S 73°29'42"E 212.02', TO THE NORTHEAST CORNER OF SAID LOT 54; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 54, S 8°12'45"E 421.25', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 5.05 ACRES, MORE OR LESS.



Memorandum

To:	Mike DeKalb, Planning Dept.
From:	Bruce Briney, Public Works and Utilities
Subject:	Change of Zone #04029, 8200 West 'O' Street
Date:	May 10, 2004
cc:	Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the application for Change of Zone #04029 for 8200 West 'O' Street. The intent of the requested change of zone from H-3 Commercial to R-1 Residential is to preserve the existing residential character of the properties. Public Works has no objection to this application.